

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CENGAGE LEARNING, INC., BEDFORD,
FREEMAN & WORTH PUBLISHING GROUP, LLC
d/b/a MACMILLAN LEARNING, MCGRAW HILL
LLC, and PEARSON EDUCATION, INC.,

Plaintiffs,

v.

DOES 1 – 50 d/b/a Library Genesis, bookwarrior,
cdn1.booksdl.org, jlibgen.tk, libgen.ee, libgen.fun,
libgen.gs, libgen.is, libgen.lc, libgen.li, libgen.pm,
libgen.rocks, libgen.rs, libgen.space, libgen.st,
libgen.su, library.lol, and llhf.com,

Defendants.

Civil Action No. 23-cv-08136-CM

DECLARATION OF KEVIN LINDSEY

I, **KEVIN LINDSEY**, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an associate at Oppenheim + Zembrak, LLP, which represents plaintiffs Cengage Learning, Inc., Bedford, Freeman & Worth Publishing Group, LLC d/b/a Macmillan Learning, McGraw Hill LLC, and Pearson Education, Inc. (collectively, “Plaintiffs”) in the above-captioned action.

2. I submit this declaration in support of Plaintiffs’ Motion to Serve Defendants by Email (the “Motion”). I have knowledge of the facts stated herein based on personal knowledge and my review of the documents, files, websites, and other items referenced herein. If called upon to do so, I am able to testify competently to the matters as stated herein.

3. Defendants in the above-captioned action own, operate, and/or control the “shadow library” known as “Library Genesis,” or “Libgen” for short. Libgen copies and distributes a vast

array of written material without authorization through multiple and ever-changing domains, including, without limitation, cdn1.booksdl.org, jlibgen.tk, libgen.ee, libgen.fun, libgen.gs, libgen.is, libgen.lc, libgen.li, libgen.pm, libgen.rocks, libgen.rs, libgen.space, libgen.st, libgen.su, library.lol, and llhlf.com (“Libgen Sites” or “Sites”).

4. Attached hereto as Exhibit 1 is a true and complete copy of the Order dated June 18, 2015 in *Elsevier Inc. et al. v. The Library Genesis Project et al.*, 15-cv-4282-RWS [Dkt. No. 15] (“Elsevier Order”). Attached hereto as Exhibit 2 is a true and complete copy of the Memorandum of Law in Support of Plaintiffs’ Application for an Order Authorizing Alternative Service of Process on Defendants and Order to Show Cause for a Preliminary Injunction in *Elsevier Inc. et al. v. The Library Genesis Project et al.*, 15-cv-4282-RWS [Dkt. No. 6] in which plaintiffs seek to serve defendants using email addresses listed as the “Registrant Email” of Libgen domains in the WHOIS database. The court granted this request and included in the list of email addresses for service an anonymized email address. *See* Elsevier Order at 3 (authorizing service to email addresses at domains private.whois.net and whoisprivacycorp.com).

5. Attached hereto as Exhibit 3 is a true and complete copy of the Order for Service by Publication and Email dated July 17, 2017 in *American Chemical Society v. Sci-Hub et al.*, 17-cv-00726-LMB-JFA [Dkt. No. 8] (“ACS Order”). Attached hereto as Exhibit 4 is a true and complete copy of Plaintiff’s Memorandum of Law in Support of its Motion for Service by Publication and Email in *American Chemical Society v. Sci-Hub et al.*, 17-cv-00726-LMB-JFA [Dkt. No. 6], in which ACS sought to serve defendants using email addresses for website registrants listed in the WHOIS database. The court granted plaintiff’s request and included in the list of email addresses for service an anonymized email address. *See* ACS Order at 1 (authorizing service to email address at domain whoisprivacycorp.com).

6. Attached hereto as Exhibit 5 is a true and complete copy of the Judgment dated June 2, 2017 in *Elsevier Inc. et al. v. The Library Genesis Project et al.*, 15-cv-4282-RWS [Dkt. No 87].

7. Attached hereto as Exhibit 6 is a true and complete copy of the Order to Show Cause for Plaintiff's Motion for Alternative Service dated Sept. 5, 2023 in *Safavieh Intl, LLC v. Chengdu Junsen Fengrui Tech. Co.-Tao Shen*, No. 23 CIV. 3960 (CM) [Dkt. No. 21].

8. On September 27, 2023, I used the electronic messaging methods listed in Exhibit 1 to the Seymour Declaration (filed herewith) to send Defendants in this action the Complaint (Dkt. No. 1) and the Court's Order Scheduling a Pretrial Conference dated September 18, 2023 (Dkt. No. 9). I did not receive any bounce-backs from the emails I sent, and the registrar or registrant proxy service's websites containing pages to send electronic messages to Site operators confirmed that the messages were successfully sent.

9. In *Zhang v. Lo*, No. 14-CV-6945 (CM) 2018 WL 1888225 (S.D.N.Y. Apr. 9, 2018), the Court denied plaintiff's motion to serve defendants by email or social media under Rule 4(f). There, the Complaint and Summons Returned Executed showed defendants' actual addresses in Hong Kong and mainland China.

I declare under penalty of perjury that the foregoing is true and correct.

Kevin Lindsey (*pro hac vice*)

Executed on October __, 2023